

RECEIVED

NOV 22 2005

PUBLIC SERVICE
COMMISSION

RECIPIENT	COMPANY	FAX NO.	PHONE NO.
Beth O'Donnell	Public Service Commission	502-564-3460	
Brent Rice	McBrayer, McGinnis	859-231-6518	

FROM: Rachael A. Rowe **PHONE:** (513) 579-6486

DATE: November, 2005

Total number of pages including cover: 5.

If there is any problem with this transmission, please call as soon as possible: (513) 579-6400.

- No original documents will follow unless requested.
- Original documents will follow by courier.
- Original documents will follow by mail.

MESSAGE:

*** CONFIDENTIALITY NOTE ***

The pages accompanying this facsimile transmission contain confidential or privileged information from the law firm of Keating Muething & Klekamp PLL. This information is intended for the individual or entity named on this cover letter. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we may arrange for the retrieval of the original documents at no cost to you.

FOR INTERNAL OFFICE USE ONLY:

Attorney: RAR

Client Code:

Matter Code:

RACHAEL A. ROWE
DIRECT DIAL: (513) 579-6486
FACSIMILE: (513) 579-6457
E-Mail: RRowe@kmlaw.com

November 21, 2005

Via Facsimile and UPS Overnight Mail

Ms. Beth O'Donnell
Executive Director,
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Application of Celco Partnership (Renfro II) Cell Facility,
Case No. 2004-00508 (The Renfro 2 Facility)

Dear Ms. O'Donnell:

On Thursday, November 17, 2005, I received the Commission's Notice of Informal Conference scheduling a settlement and planning meeting for November 29, 2005 at 1:00 p.m. EST, and requesting briefing on Intervenor Major Jeffrey Stevens's rights under the Servicemembers Civil Relief Act of 2004 ("SCRA").

Due to other work obligations, I was unable to turn my full attention to the Notice until Sunday, November 20. After researching the detailed requirements of the SCRA, I realized that I needed to contact Major Stevens immediately to obtain a statement from his commanding officer. See 50 App. U.S.C.A. § 522(b)(2)(B). Therefore, this morning I telephoned my contact for Major Stevens and requested that she help me reach him so that he could obtain the necessary statement. After contacting Major Stevens's mother, we learned that the Major's battalion had returned to the United States on November 8. After several days of debriefing and transition exercises at a military base in Indiana, Major Stevens returned home to Kentucky last week. I spoke to Major Stevens late this morning, and he informed me that his battalion is not under any orders to re-deploy overseas. While troop rotation is somewhat uncertain, he hopes to remain home for at least the next year. Therefore, I do not believe that Major Stevens will need any relief under the SCRA at this time.

Shortly after speaking to Major Stevens, I contacted Brent Rice, counsel for Celco Partnership, to inform him of Major Stevens's return to the United States. I hoped that my email would alleviate the need for Mr. Rice to spend unnecessary time on briefing any SCRA issues. Unfortunately, Mr. Rice already had written and submitted materials in response to your Notice.

In my communication to Mr. Rice, I also informed him that I planned to request from you that I be permitted to participate in the November 29 informal conference by telephone, rather than in person, because I have a previously scheduled deposition preparation session for

Ms. Beth O'Donnell

November 21, 2005

Page 2

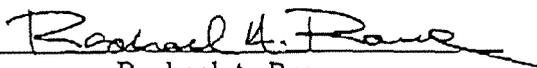
that day in Cincinnati. I would, of course, be prepared and authorized to discuss potential resolution of the matter and, if resolution is impossible, to discuss issues for hearing, witnesses, stipulations, et cetera. Alternatively, if the Commission has video-conferencing equipment, I could participate that way from my law firm.

Mr. Rice is understandably frustrated by the fact that I did not learn of Major Stevens's return to the United States until this morning and that he, consequently, unnecessarily spent time briefing the SCRA issues. Although I apologized to Mr. Rice and tried to explain the circumstances, he is not inclined to support my request to participate in the November 29 meeting by phone. (See attached email exchange between Brent Rice and Rachael Rowe.) Nevertheless, I respectfully request that you permit me to participate by telephone or video-conference in light of the facts that (1) this is an informal conference and (2) I had a previously scheduled meeting in Cincinnati on November 29.

Thank you for your consideration.

Very truly yours,

KEATING, MUETHING & KLEKAMP, P.L.L.

By: 
Rachael A. Rowe

RAR:kaf

Enclosure

cc: Major Jeffrey Stevens
Loretta S. Rowe
W. Brent Rice (*via email* - brice@mmlk.com)

Rowe, Rachael A.

From: Rowe, Rachael A.
Sent: Monday, November 21, 2005 1:43 PM
To: 'brice@mmlk.com'
Subject: RE: Cellco Partnership Renfro II Cell Facility Application - Rockcastle County, KY

Brent: I apologize for the delay. I did not know that Major Stevens had returned until this morning. Although the Notice went out on the 14th, I did not receive it until the 17th. I had co-counsel in town from California, Atlanta and Washington on Thursday and Friday for deposition preparation and did not have a chance to turn to the Notice until the weekend.

I began to work on the brief this morning and realized that I would need a statement from the Major's commanding officer to comply with the SCRA. I telephoned my contact for Major Stevens, who called the Major's mother and thereby found out that he had returned home. As you can imagine, when one has been overseas in the military under very stressful conditions, his or her first priority on return is reconnecting with immediate family. Major Stevens has a daughter who is a freshman in college at EKV and since his return to Kentucky last week has been spending as much time with her and the rest of his family as possible, and has been getting readjusted to life at his own home in the states.

While I apologize for the inconvenience, under the circumstances, I do not know what else I might have done. I let you know within two hours of finding out myself (for the precise purpose of saving you from having to do unnecessary work). Be that as it may, I will make the request to the Commission and let it know that you are not amenable to me not being there live. If necessary, I will send one of my Kentucky-licensed colleagues in my place.

Have a nice Thanksgiving.

-----Original Message-----

From: brice@mmlk.com [mailto:brice@mmlk.com]
Sent: Monday, November 21, 2005 1:27 PM
To: Rowe, Rachael A.
Subject: RE: Cellco Partnership Renfro II Cell Facility Application - Rockcastle County, KY

Rachael, We have already briefed it and it went out this morning. This is the third attempt to have an informal conference. I will be there with my client and we will be prepared to discuss all the issues your clients may have. I can not agree to your not attending in view of the delays to date. The Commission's Order went out on the 14th. Had you notified me last week of Major Stephens return last week I could have saved my client the expense of preparing the brief. For some reason in reflecting back on this matter, it seems I always get last minute notice of your inability to attend etc. Because of the excessive delays and unnecessary costs incurred by my client, as a direct result of your late notices, I am not in a cooperative mood at the moment. Hopefully, if you reflect back as well you can understand why. Brent Rice McBrayer, McGinnis, Leslie & Kirkland, PLLC 201 East Main Street, Suite 1000 Lexington, KY 40507
(859) 231-8780
FAX (859) 231-6518
brice@mmlk.com

-----Original Message-----

From: rrowe@kmklaw.com [mailto:rrowe@kmklaw.com]
Sent: Monday, November 21, 2005 1:02 PM
To: Brent Rice
Cc: rrowe@kmklaw.com
Subject: Cellco Partnership Renfro II Cell Facility Application - Rockcastle County, KY

Brent: I received from the Commission a notice of informal conference and direction for

us to brief the commission on Major Stevens's rights under the Servicemembers Civil Relief Act of 2004 ("SCRA"). Consistent with my earlier communications, Major Stevens battalion returned to the United States on November 8, and after a week of debrief and transition at a base in Indiana, he now has returned to Rockcastle County. I spoke to him this morning, and he does not currently have, nor does he anticipate, any immediate orders to ship out of the country again. So, I do not think he will need any relief under the SCRA. I wanted to let you know ASAP so that you do not waste any time briefing the issue. I will send a letter to the Commission, with a cc to you, informing Ms. O'Donnell of this development.

Also, unless you object, I plan to request that I be permitted to participate in the informal conference by phone. I am scheduled to be in deposition preparation in Cincinnati on the 29th. Do you have any objection to this?

Would you also like to participate by phone?

Finally, do you want to discuss any of the issues raised in the Commission's Notice prior to the 29th? It seems to me that if we talk first, we may be able to streamline the conference.

Let me know what you think. Thanks, Rachael Rowe

Rachael A. Rowe
Keating Muething & Klekamp PLL
One East Fourth Street
Suite 1400
Cincinnati, OH 45202
Tel: 513-639-3946
Fax: 513-579-6457
Internet Address: rrowe@kmklaw.com
Website: www.kmklaw.com

--- CONFIDENTIALITY STATEMENT --- This e-mail transmission contains information that is intended to be privileged and confidential. It is intended only for the addressee named above. If you receive this e-mail in error, please do not read, copy or disseminate it in any manner. If you are not the intended recipient, any disclosure, copying, distribution or use of the contents of this information is prohibited. Please reply to the message immediately by informing the sender that the message was misdirected. After replying, please erase it from your computer system. Your assistance in correcting this error is appreciated.
